

District Court Standing Order 6-20
Court Operations Under the Exigent Circumstances
Created by COVID-19 (coronavirus)

In light of public health concerns regarding the COVID-19 (coronavirus) pandemic, I hereby ORDER, pursuant to my authority as set forth in G.L. c. 211B, § 10, G.L. c. 218, §§ 38 & 43A, and G.L. c. 220, § 5 and, consistent with the Supreme Judicial Court Second Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic, that District Court Standing Order 5-20 promulgated on May 4, 2020, is hereby rescinded and superseded upon the effective date of this Standing Order.

I. Emergency and non-emergency matters to be heard virtually

During normal court hours (Monday-Friday, 8:30 a.m. to 4:30 p.m.), all sixty-two divisions of the District Court shall conduct the following emergency and non-emergency matters as defined in this section within their territorial jurisdiction virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system) without the physical presence of the parties, counsel, or other members of the public:

A. Emergency matters

- abuse prevention orders pursuant to G.L. c. 209A;
- harassment prevention orders pursuant to G.L. c. 258E;
- extreme risk protection orders pursuant to G.L. c. 140, §§ 131R-131Y;
- issuance of complaints for persons arrested and in custody;
- arraignments of new arrests in which the arrestee is in custody and proceedings pursuant to G.L. c. 276, § 58A;
- emergency motions for review or release of persons in custody, including those subject to District Court Standing Order 4-20;
- motions for funds for social workers and others necessary to put in place release plans for those who are being held pretrial, those who are civilly committed for substance abuse treatment, and those who are serving a committed sentence, as set forth in *Committee for Public Counsel Services v. Chief Justice of the Trial Court (No. 2)*, 484 Mass. 1029 (April 28, 2020);
- warrant removals;
- probation detention hearings and probation violation hearings of persons in custody;
- all mental health matters brought pursuant to G.L. c. 123;
- applications for arrest warrants;
- motions to remove or modify wage attachments and payment orders;
- motions to stay executions on a judgment of possession of a residential or small business premises unit as set forth in the moratorium on evictions and foreclosures signed into law by the Governor of the Commonwealth on April 20, 2020, see St. 2020, c. 65;
- motions for temporary restraining orders pursuant to G.L. c. 186, § 14;
- evaluations and hearings on petitions for commitment pursuant to G.L. c. 123, § 35, as set forth in § II below;

- other criminal or civil matters deemed an emergency by a judge or clerk-magistrate.

B. Non-emergency matters

- upon motion or request, pre-trial criminal matters (for persons both in custody and not in custody), including tenders of pleas and admissions.

With the exception of small claims trials, *see* § V.B. below, this Order does not prevent any court's consideration or hearing, at the discretion of a judge or clerk-magistrate, of other non-emergency matters that can be handled virtually by videoconference, telephonic conference call, or other similar means where it will not require an increase in the number of Clerk's Office or Probation staff physically present in the courthouse in order to accomplish such work, and where it is practicable to do so in view of (a) limited court staffing, (b) technological constraints, (c) the need to prioritize emergency or other matters, and (d) legal constraints.

C. Hearings to be conducted virtually

Except as set forth in § II or § V.E. of this order, each District Court division shall conduct all of the matters set forth in this section virtually; no in-person matters shall be conducted in any division unless the Regional Administrative Justice determines that virtual resolution of the matter is not practicable or would be inconsistent with the protection of constitutional rights. Only upon a showing of exceptional circumstances may in-person access be allowed upon approval of the Regional Administrative Justice. The doors to the courthouses (or clerk's offices and courtrooms if in a multi-use building) shall not be open to the public and no member of the public, including persons in custody, shall be permitted to enter the District Courts' courthouses unless so ordered by a Regional Administrative Justice under the circumstances outlined in this Order and as set forth in the Supreme Judicial Court Second Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic.

To the extent that any judge or clerk-magistrate determines to conduct hearings in non-emergency civil matters as set forth in § I.B., such hearings shall be conducted virtually, only where the parties have the technological capability to participate virtually and, for evidentiary hearings, only where the parties consent to have the hearing conducted virtually, subject to the provisions set forth in § V.H. regarding jury-waived trials.

To the extent that any judge or clerk-magistrate determines to conduct show cause hearings as set forth in § I.B., such hearings shall be conducted by videoconference and only where the parties have the technological capability to participate by videoconference and the accused consents to have the hearing conducted by videoconference.

In the event that a courthouse of a division must temporarily close as a result of exposure to the COVID-19 pandemic, its emergency business will be conducted by another division as directed by the Chief Justice of the District Court.

II. Procedure for petitions for commitment pursuant to G.L. c. 123, § 35

Beginning June 3, 2020, all summons and warrants of apprehension issued upon the filing of a petition for commitment pursuant to G.L. c. 123, § 35 shall be returned to a District Court courthouse as set forth in § 35; on June 1 and 2, 2020, all § 35 evaluations and hearings shall be conducted pursuant to § I.C. of this Order.

All petitions for commitment pursuant to G.L. c. 123, § 35 shall be initiated by calling the telephone number of the court division with jurisdiction over the matter or Trial Court Help Line at 833-91COURT. The respondent shall be evaluated virtually from the courthouse, and all hearings on a petition pursuant to § 35 shall be conducted while the respondent is in the courthouse, although it may be conducted virtually, including where the judge and respondent participate from different parts of the courthouse. The respondent shall be provided an opportunity to virtually confer privately with counsel. All other witnesses shall testify virtually by video or telephone and no other person, including the petitioner, shall be permitted to enter the courthouse unless entry is ordered by the judge conducting the § 35 hearing.

Where a respondent is hospitalized, all effort shall be made to conduct the proceeding virtually with the respondent participating from the hospital.

III. Procedure for hearings

Matters set forth in § I may be initiated by calling the telephone number of the court division with jurisdiction over the matter or Trial Court Help Line at 833-91COURT. Filings may also be made by email to the court division's website address: CM[COURT NAME]DC@jud.state.ma.us. Each District Court division shall prominently post on its main doors the Trial Court Help Line telephone number and that division's telephone number with instructions to call that number to initiate a matter set forth in § I, as well as the division's email address. The Trial Court Help Line telephone number and each District Court division's phone number and email address shall also be posted on <https://www.mass.gov/guides/court-system-response-to-covid-19> with instructions that a person seeking to initiate a matter in § I shall call the court division's telephone number.

The clerk-magistrate or his or her designee shall answer all telephone calls to their division and review emails to the court division's email address and shall review and act on, as necessary, electronic filings. The clerk-magistrate or their designee shall bring a matter in § I to the attention of a judge and coordinate the review and any hearing of any such matter. Clerk-magistrates or their designee should docket all matters in § I and enter data into the Warrant Management System and should coordinate with a probation officer in order to obtain and provide the transfer of necessary probation information.

All hearings in § I, apart from the exception described above, shall take place virtually by videoconference or telephonic conference call with both the clerk or their designee and the judge on the line. Clerk-magistrates or their designee should encourage parties to fill out court forms that are available on <https://www.mass.gov/orgs/district-court> and may electronically accept filings to the extent feasible. Hearings should be audio recorded if practicable. If a petition,

motion, or application is unable to be filed in advance of a hearing or the hearing is unable to be audio recorded, the judge and the clerk-magistrate or their designee shall work together to create a record of the hearing, including recording the matter in MassCourts and filling out necessary forms, so as to memorialize all necessary identifying information, allegations, findings, and rulings. Where feasible, orders should be emailed to the parties; otherwise they shall be mailed to the parties.

Any District Court criminal or civil rule or order that impedes a judge's or clerk-magistrate's ability to utilize available technologies to limit in-person contact is suspended for the duration of this Order.

IV. After court hours

After 4:30 p.m., the judicial response system will be activated in the normal course and should be carried out consistent with Trial Court Emergency Order 20-5.

V. Additional Orders

A. If a hearing on an emergency protection order (G.L. c. 209A; c. 258E; c. 140) was unable to be conducted in-person by the Court as scheduled after March 18, 2020, that Order shall remain in effect until the matter is rescheduled and heard by the Court (unless an order issues by the Court terminating the order at an earlier date). Any order issued at a hearing after notice, whether by telephone or videoconference, can be issued up to the full statutory period (i.e., up to one year for an initial order after notice, and for any period of time, up to a permanent order, for subsequent orders).

B. All cases scheduled for a court event between March 18, 2020 and June 30, 2020 shall be CONTINUED to a date no earlier than July 1, 2020 and no less than 60 days, or 30 days for a criminal defendant in custody, from the date of the scheduled event or to a date by agreement of the parties and the respective clerk's office, unless the matter is scheduled for a hearing pursuant to § I.B. Counsel or parties may contact the Clerk's Office by telephone to schedule an event that has been continued as a result of this Order. Any new matters should be scheduled for a date after July 1, 2020. Small claims trials shall be continued to a date no earlier than September 8, 2020, unless the parties have the technological capability to participate virtually and both sides agree to a virtual hearing. Nothing contained herein shall prevent the parties in small claim matters from participating in mediation led by a third party-mediator.

C. Persons who have been assessed fees, fines, or court costs, including probation supervision fees, in a criminal matter that are due between March 18, 2020 and June 30, 2020 may pay their fee or fine online through the e-pay portal that is accessible at www.masscourts.org. No fees, fines, or costs shall be collected at a courthouse while this Order is in effect. If a person is unable to pay such fee or fine through the e-pay portal, the requirement that such fee or fine be paid during that time frame is deferred until July 1, 2020 and Courts shall extend payment due dates to July 31, 2020. The deferment of such payment shall not operate to extend a person's probation.

D. Persons seeking to post bail should be directed to post bail in accordance with Trial Court Administrative Order 20-6: Temporary alternative procedures for Bail Magistrates and Bail Commissioners setting and taking bail after court hours during the COVID-19 pandemic (<https://www.mass.gov/trial-court-rules/trial-court-emergency-administrative-order-20-6-temporary-alternative-procedures>).

E. Where a judge has ordered a criminal defendant's pretrial release conditioned on monitoring by a global positioning device or SCRAM, consistent with the restrictions mandated by the Supreme Judicial Court's Order concerning the imposition of global positioning system (GPS) monitoring as condition of release or of probation, issued March 23, 2020 (<https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-order-concerning-the-imposition-of-global>), and the Massachusetts Probation Service Policy issued March 13, 2020, the defendant and persons necessary to install, remove, or perform maintenance on such a device are permitted to enter the courthouse.

F. In order to provide staffing for these procedures, Regional Administrative Justices, First Justices, and Clerk-Magistrates are to, respectively, designate a rotating schedule of the minimum necessary judges and clerk's office staff needed on site to accomplish the administration of court business and to be available to answer telephone calls from the public.

G. A party who has had a trial or other non-emergency hearing postponed as a result of this Order or prior District Court Standing Order¹ may apply for a conference with the court where the trial or other non-emergency hearing was to occur to address matters arising from the postponement, which shall be conducted virtually.

H. All jury trials, in both criminal and civil cases, scheduled to commence in the District Court at any time from March 14, 2020, through September 4, 2020, are hereby continued to a date no earlier than September 8, 2020. All bench trials in civil cases scheduled to commence in the District Court at any time from March 14, 2020, through June 30, 2020, are hereby continued to a date no earlier than July 1, 2020, unless in the trial judge's discretion the trial may be conducted virtually. All bench trials in criminal cases scheduled to commence in the District Court at any time from March 14, 2020, through June 30, 2020, are hereby continued to a date no earlier than July 1, 2020, unless the trial may be conducted virtually by agreement of the parties and the trial judge.

I. Unless prohibited by law or court order, members of the public may remotely watch a videoconference hearing or listen to a telephone hearing as it is happening. During a virtual court hearing, members of the public are not permitted to speak, interrupt, or otherwise disrupt the hearing and must mute whatever device they are using to watch or listen to the hearing.

¹ District Court Standing Orders 2-20, 3-20, and 5-20.

VI. Scope of this Order

This Order will remain in effect until a subsequent order issues rescinding this Order. Any other deviation from this Order must be sought from the Chief Justice of the District Court.

The provisions set forth in § II of this Order regarding the physical entry of respondents in G.L. c. 123, § 35 proceedings into District Court courthouses shall take effect on June 3, 2020. All other provisions of this Order shall take effect on June 1, 2020.

/s/ Paul C. Dawley

Hon. Paul C. Dawley
Chief Justice of the District Court
Promulgated: May 29, 2020